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4 **IN THE UNITED STATES DISTRICT COURT**
5 **FOR THE DISTRICT OF ARIZONA**

6 IN RE BARD IVC FILTERS
7 PRODUCTS LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

8 **SECOND AMENDED MASTER SHORT**
9 **FORM COMPLAINT FOR DAMAGES**
10 **FOR INDIVIDUAL CLAIMS AND**
11 **DEMAND FOR JURY TRIAL**

12 Plaintiff(s) named below, for their Complaint against Defendants named below,
13 incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc. 364).

14 Plaintiff(s) further show the Court as follows:

15 1. Plaintiff/Deceased Party:

16 David Burton Fish

17 2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of
18 consortium claim:

19 Jill Broome Fish

20 3. Other Plaintiff and capacity (i.e., administrator, executor, guardian,
21 conservator):

22 N/A

4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of implant:

California

5. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of injury:

California

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

California

7. District Court and Division in which venue would be proper absent direct filing:

California Southern District Court

8. Defendants (check Defendants against whom Complaint is made):

☒ C.R. Bard Inc.

☒ Bard Peripheral Vascular, Inc.

9. Basis of Jurisdiction:

☒ Diversity of Citizenship

☐ Other: _____

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

☒ Recovery[®] Vena Cava Filter

☐ G2[®] Vena Cava Filter

☐ G2[®] Express (G2[®]X) Vena Cava Filter

☐ Eclipse[®] Vena Cava Filter

☐ Meridian[®] Vena Cava Filter

☐ Denali[®] Vena Cava Filter

☐ Other: _____

11. Date of Implantation as to each product:

October 20, 2005

12. Counts in the Master Complaint brought by Plaintiff(s):

☒ Count I: Strict Products Liability – Manufacturing Defect

☒ Count II: Strict Products Liability – Information Defect (Failure to Warn)

☒ Count III: Strict Products Liability – Design Defect

☒ Count IV: Negligence - Design

☒ Count V: Negligence - Manufacture

☒ Count VI: Negligence – Failure to Recall/Retrofit

☒ Count VII: Negligence – Failure to Warn

☒ Count VIII: Negligent Misrepresentation

☒ Count IX: Negligence *Per Se*

- ☒ Count X: Breach of Express Warranty
- ☒ Count XI: Breach of Implied Warranty
- ☒ Count XII: Fraudulent Misrepresentation
- ☒ Count XIII: Fraudulent Concealment
- ☒ Count XIV: Violations of Applicable California Law Prohibiting
Consumer Fraud and Unfair and Deceptive Trade Practices
- ☒ Count XV: Loss of Consortium
- ☐ Count XVI: Wrongful Death
- ☐ Count XVII: Survival
- ☒ Punitive Damages
- ☒ Other(s): All claims for Relief set forth in the Master Complaint for
an amount to be determined by the trier of fact including for the
following: (please state the facts supporting this Count in the space
immediately below)
- On October 20, 2005, Mr. Fish had a Bard Recovery Filter implanted in
his inferior vena cava. As a result, the Fishs have suffered damages in
an amount to be proven at trial.

13. Jury Trial demanded for all issues so triable?

☒ Yes

☐ No

1 RESPECTFULLY SUBMITTED this 5th day of May, 2016.

2 **GALLAGHER & KENNEDY, P.A.**

3 By: /s/ Robert W. Boatman
4 Robert W. Boatman
5 Mark S. O'Connor
6 Paul L. Stoller
7 Shannon L. Clark
8 C. Lincoln Combs
9 2575 East Camelback Road
10 Phoenix, Arizona 85016-9225

11 *Attorneys for Plaintiffs*

12 **CERTIFICATE OF SERVICE**

13 I hereby certify that on this 5th day of May, 2016, I electronically transmitted the
14 attached document to the Clerk's Office using the CM/ECF System for filing and transmittal
15 of a Notice of Electronic Filing.
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17 /s/Deborah Yanazzo
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